

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MERNETTA E. HARRISON,

Plaintiff,

VS.

DEUTSCHE BANK, NA,

Defendant.

8:10CV255

ORDER

This matter is before the court on the plaintiff's Motion to Reconsider Imposing Sanctions ([Filing No. 28](#)). By order dated December 20, 2010, the court required the plaintiff's counsel to show cause why sanctions should not be imposed for counsel's failure to initiate a telephone conference with the court that had previously been scheduled for December 16, 2010. **See** [Filing No. 27](#) - Show Cause Order; [Filing No. 13](#) - Scheduling Order. The court held a telephone conference with counsel for the parties on January 12, 2011. John Carter represented the plaintiff and Erin E. Busch represented the defendant. The court rescheduled the planning conference for a later date to allow the parties to resolve outstanding discovery matters. **See** [Filing No. 29](#). During the conference, the court determined a sanction against the plaintiff's counsel was appropriate to shift the cost associated with the plaintiff's counsel's failure to comply with the August 24, 2010, scheduling order. The court gave the parties until January 24, 2011, to file a stipulation regarding the amount of reasonable fees. **See** [Filing No. 29](#). On January 13, 2011, the defendant filed a motion to compel discovery responses. **See** [Filing No. 30](#). However, the parties did not file a stipulation regarding the sanction.

The Federal Rules of Civil Procedure provide authority for the court to impose sanctions, including dismissal of an action, for failure to abide by court orders or participate in good faith to insure the progression of the case. [Fed. R. Civ. P. 16\(f\)](#); [Fed. R. Civ. P. 41\(b\)](#). The plaintiff's counsel has had an opportunity to be heard on the matter. In review of the plaintiff's motion for reconsideration, the arguments made during the telephone conference, and the other circumstances surrounding this matter, the court will sanction

the plaintiff's counsel, John M. Carter, in the amount of \$150.00, to compensate the defendant for its costs associated with the plaintiff's counsel's failure to comply with the earlier court order. The court finds the amount is reasonable in this instance. Upon consideration,

IT IS ORDERED:

1. The plaintiff's Motion to Reconsider Imposing Sanctions ([Filing No. 28](#)) is denied.

2. Sanctions are granted in the **amount of \$150.00**, for reasonable attorney fees in favor of the defendant and against the plaintiff's attorney, John M. Carter. John M. Carter shall have **thirty days** from the date of this Order to pay the defendant the sum of \$150.00, and file verification of payment with the court.

DATED this 25th day of January, 2011.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge